

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2019-3-E

In RE:

Annual Review of Base Rates for
 Fuel Costs of Duke Energy Carolinas,
 LLC, Increasing Residential and
 Non-Residential Rates

**POST-HEARING BRIEF OF
 DUKE ENERGY CAROLINAS, LLC**

On July 30, 2019, Duke Energy Carolinas, LLC (“DEC” or the “Company”) filed its case-in-chief, consisting of witness testimony and exhibits, in the above-referenced proceeding with the Public Service Commission of South Carolina (the “Commission”) requesting recovery of its fuel costs under S.C. Code Ann. § 58-27-865. The hearing in this proceeding was held before the Commission on September 10, 2019. DEC, by and through the undersigned counsel and pursuant to S.C. Code Ann. Regs. 103-851, hereby submits this Brief in order to clarify its position as to what amounts to a discovery dispute between itself and the Southern Alliance for Clean Energy and the South Carolina Coastal Conservation League (“SACE/CCL”).

Consistent with the terms of the Stipulation entered into between the South Carolina Office of Regulatory Staff, the Company, and the South Carolina Energy Users Committee and filed in this proceeding on September 3, 2019 (the “Stipulation”), and consistent with the Company’s support of the terms of the Stipulation, all statements in this Brief should be read in concert with the Stipulation.

I. Background

In the instant proceeding, SACE/CCL filed with the Commission and served upon the Company a Request for Production that included the following request: “Please provide the Company’s MW production and fuel use by hour by day for each of the Company’s generating facilities capable of using gas for the current period and for gas used, please include the pipeline and Contract ID(s) used to deliver such gas.” The Company responded to this request by providing monthly MWhs generated and natural gas consumed for the review period of the current fuel proceeding and identified for each generating facility which LDC pipeline provided delivery, and explained that the Company does not report gas deliveries and generation by day.

II. Argument

A. The Company questions the assertion that this data is provided by other utilities to SACE/CCL

If SACE/CCL intended to proffer other utilities’ provision of information as evidence that the Company should provide the same information, SACE/CCL should have included this position in pre-filed testimony along with cites to relevant dockets, orders, and regulations. Instead, Mr. Lander stated at the hearing, without supporting, that other electric utilities, including South Carolina Electric & Gas (“SCE&G”), have provided hourly gas consumption data, and that “the way we got the information was represented to us as the information that was available by the electric personnel who bought and scheduled gas for their power plants.”¹ The Commission’s regulations require that copies of interrogatories and requests for production “be filed with the Chief Clerk.” S.C. Code Ann. Regs. 103-833(B), (C). It does not appear that SACE/CCL has

¹ Video of Hearing at 2:47:55 – 2:48:12, *available at* https://cdnapisec.kaltura.com/index.php/extwidget/preview/partner_id/954571/uiconf_id/32350031/entry_id/1_xx0k8ygi/embed/dynamic#t=2:47:55.

filed any interrogatories or requests for production in any recent SCE&G fuel case. *See* Docket Nos. 2019-2-E, 2018-2-E, 2017-2-E, and 2016-2-E. For that reason, the parties and the Commission are unable to verify Mr. Lander's assertions that SCE&G provides the gas consumption information SACE/CCL has requested in the instant proceeding, or understand the circumstances under which such information would be provided.

B. SACE/CCL is attempting to circumvent the discovery process

SACE/CCL's position is essentially that, because it was not satisfied with the Company's response to a discovery request, the Commission should require the Company to report the requested information to the Commission. There is, however, a process prescribed by the Commission's regulations and the S.C. Rules of Civil Procedure for parties who are unsatisfied with a discovery response. Upon learning that the Company does not report the information SACE/CCL requested, SACE/CCL could have propounded further discovery to better understand what information the Company does have. Further, should SACE/CCL have been unable to obtain requested information, the S.C. Rules of Civil Procedure—as adopted in the context of discovery by Commission Regulation 103-835—would require the filing of a motion to compel. The Company would also generally expect that the party would consult with the Company before filing such a motion in a good faith effort to resolve the discovery matter.

The Company takes issue with SACE/CCL's circumvention of this required discovery process. The Company responded to SACE/CCL's discovery request in a timely manner, and SACE/CCL did not seek clarification or further information from the Company, nor did it file a motion to compel as required by the Commission's regulations and the S.C. Rules of Civil Procedure. As indicated in Attachment B to Mr. Lander's direct testimony, the discovery responses at issue were provided to SACE/CCL on July 29, 2019. There was ample time for

SACE/CCL to consult with the Company and attempt to resolve this discovery issue before its testimony was due on August 20,² and well before the hearing on September 10. Instead, SACE/CCL recommends that the Company report to the Commission information that no other party has requested. As discussed below, there is information that the Company could provide, but the Company believes that the appropriate context for the provision of such information is through the discovery channels and processes prescribed by this Commission's regulations and the S.C. Rules of Civil Procedure.

C. There is no LDC capacity release market, and therefore the information SACE/CCL requests has no value

In Mr. Lander's pre-filed direct testimony, Mr. Lander suggests that the information should be provided so that he could "analyze how well the Company monetizes its unused capacity on an hourly basis. You can also implement practices to determine whether third party sales or capacity releases are best for the ratepayer."³ On rebuttal, DEC witness Brett Phipps pointed out that "there is no associated capacity release market as suggested by Mr. Lander."⁴ In responding to questions offered by Commissioner Belser, Mr. Lander confirmed this fact:

Commissioner Belser: In rebuttal testimony, the Duke witness Mr. Phipps stated that the LDC agreements are intrastate agreements and there is no associated capacity release market.

Mr. Lander: That is correct.

Commissioner Belser: That's correct that that's his statement or that's a corr-

² See Order No. 2019-95-H (setting revised testimony pre-file deadlines).

³ Lander Direct Testimony at 13.

⁴ Phipps Rebuttal Testimony at 5.

Mr. Lander: Both. His statement is correct and it's correct that there's no capacity release requirement or even that I know of going on in LDCs. The capacity release market operates on the interstate⁵

The fact that there is no capacity release market for the gas that SACE/CCL proposes that DEC resell evidences the lack of value in the information SACE/CCL has requested. As for interstate capacity, as explained in Mr. Phipps' rebuttal testimony, "the Company needs its existing firm transportation capacity on a daily basis and is not in a position to resell its capacity."⁶

The Company would also point out that the section of the Transco Tariff governing interstate capacity releases limits the amount of capacity that may be recalled during the intraday cycles.⁷ Further, the Transco Tariff subjects shippers to daily pipeline tolerances and associated fees and penalties when those tolerances are exceeded.⁸ Unutilized portions of daily capacity that may exist from time to time are applied by Transco to reduce any fees resulting from over utilization of the pipeline. As Mr. Phipps testified, while the Company has not—to this point—been assessed any penalties resulting from operational flow orders (OFOs), managing the risk of penalties associated with OFOs has become increasingly necessary.⁹

The Transco Tariff also belies Mr. Lander's representation during the hearing that "Not only can you nominate on Transco twice today for tomorrow's start, and then four more times,

⁵ Video of Hearing at 2:51:36 - 2:52:07, *available at* https://cdnapisec.kaltura.com/index.php/extwidget/preview/partner_id/954571/uiconf_id/32350031/entry_id/1_xx0k8ygi/embed/dynamic#t=2:51:36.

⁶ Phipps Rebuttal Test. at 6.

⁷ Transco Tariff, Part IV, Section 42 (Capacity Release), page 11, *available at* <http://www.1line.williams.com/Transco/files/Tariff/TranscoTariff.pdf>.

⁸ *Id.* at Part IV, Section 18 (Deliveries and Receipts, Overruns and Penalties).

⁹ Video of Hearing at 59:28 - 59:58, *available at* https://cdnapisec.kaltura.com/index.php/extwidget/preview/partner_id/954571/uiconf_id/32350031/entry_id/1_xx0k8ygi/embed/dynamic#t=59:28; Phipps Rebuttal Test. at 5.

three more times during the day tomorrow, on Transco they permit you to nominate at any time to start the next hour.”¹⁰ Instead, Section 28 of the Transco Tariff permits nominations only during a few specified cycles taking place during specified times.¹¹ Additionally, following the end of the Third Intraday (“ID3”) cycle at 9:00 pm Central Time (8:00 pm Eastern Time) “scheduled quantities resulting from Evening Nominations shall be effective at 10:00pm on the current gas day.”¹² Consequently, the remaining 14 hours of the gas day during which DEC’s generation portfolio is serving its customer load, DEC is unable to nominate gas on the pipeline.

D. The Company has metered daily gas consumption volumes

At the hearing in this proceeding, Mr. Lander speculated that the local distribution company (“LDC”) may be providing real-time gas consumption data to DEC and that “all DEC has to do is record it, you know, just write it to a file, so they have a day, hour, amount, and location.”¹³ The Company takes this opportunity to clarify that its LDCs—i.e., Piedmont National Gas and Public Service Company of North Carolina—do not provide hourly data to the Company. Instead, the LDCs provide the Company with monthly bills that show the previous month’s actual, metered daily delivered natural gas volumes by station. SACE/CCL would know this—and, indeed, have these daily volumes—had they requested it in discovery.

¹⁰ Video of Hearing at 2:43:38 - 2:43:54, *available at* https://cdnapisec.kaltura.com/index.php/extwidget/preview/partner_id/954571/uiconf_id/32350031/entry_id/1_xx0k8ygi/embed/dynamic#t=2:43:38.

¹¹ Transco Tariff, Part IV, Section 28 (Nominations), pages 2-4, *available at* <http://www.1line.williams.com/Transco/files/Tariff/TranscoTariff.pdf>.

¹² *Id.* at 4.

¹³ Video of Hearing at 2:43:05 – 2:43:25, *available at* https://cdnapisec.kaltura.com/index.php/extwidget/preview/partner_id/954571/uiconf_id/32350031/entry_id/1_xx0k8ygi/embed/dynamic#t=2:43:05.

As noted in Mr. Phipps' Rebuttal Testimony, the Company does use certain hourly information for operational purposes. The information referenced in Mr. Phipps's testimony is the product of calculations derived from plant heat rate assumptions and is a proxy used by the Company to approximate gas consumption for operational purposes. This information is used by the gas desk, unit commitment desk, and the dispatch desk to monitor estimated gas usage throughout the respective gas day to help manage imbalances and operate within operational flow orders so the company can manage and react to real-time changes in the Company's generation profile. This information is not that which is sought by SACE/CCL, i.e., hourly gas consumption data, and it is not revenue-quality and therefore should not be used as a basis for informing rates charged to DEC's customers. Actual gas consumption data is instead contained in the LDC's monthly bills to the Company, which include metered daily delivered gas volumes.

E. DEC's proposed provision of fuel consumption information

Should the Commission decide that the Company should provide gas consumption information to SACE/CCL, DEC would propose to retain—for purposes of production in the next fuel case should a party to that proceeding request it—the Company's metered daily gas consumption volumes for the review period applicable to DEC's 2020 fuel proceeding (i.e., June 1, 2019 – May 31, 2020). The production of this data would impose a much less substantial burden than that which would be imposed by the retention and production of the hourly operational information discussed above, and the produced information would be actual metered data rather than estimates based on certain assumptions and inputs.

F. Conclusion

As explained above, the Company believes that the most appropriate context and procedure for providing information to parties that have intervened in its fuel cost recovery proceeding is

through discovery within the proceeding itself as prescribed by the Commission's regulations and the S.C. Rules of Civil Procedure. The Company also believes that the information requested by SACE/CCL lacks any value because there is no LDC resale capacity market and the Company has no unneeded gas capacity. Nevertheless, should the Commission determine that the information should be produced, the Company would propose to provide its metered daily gas consumption volumes should a party in the next fuel case request it.

Respectfully submitted,

s/Samuel J. Wellborn

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Columbia, South Carolina
 September 20, 2019

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Costs of Duke Energy Carolinas, LLC,)
Increasing Residential and Non-)
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CERTIFICATE OF SERVICE

This is to certify that I, Toni C. Hawkins, a paralegal with the law firm of Robinson Gray Stepp & Laffitte, LLC, have this day caused to be served upon the person(s) named below the **Post Hearing Brief of Duke Energy Carolinas, LLC** in the foregoing matter by electronic mail as follows:

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Dated at Columbia, South Carolina this 20th day of September, 2019.



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